

Board of Forestry and Fire Protection
November 27, 2018 Regulations Workshop

Consolidation Effort

14 CCR 1038

1038. (g) The removal of woody debris and slash that is:

- (1) located outside the standard width WLPZ;
- (2) within the reach of loading equipment operating on existing logging roads and landings;
- (3) developed during timber operations; and
- (4) delivered as combustion fuel for the production of energy.

Timber operations under this subsection shall comply with the conditions of section 1038(b)(3), (4), (6), (7), (8), and (10).

1038. (d) The limit of 10 percent of the volume per acre in subsection (b) above does not apply when harvesting dead trees which are unmerchantable as sawlog-size timber from substantially damaged timberlands, as defined in 14 CCR 895.1, and the following conditions are met

- (1) Timber operations shall comply with the limits established in 14 CCR 1038(b)(1)-(10).
- (2) The landowner shall notify the Director of the completion of timber operations within 30 days of their cessation.
- (3) At least one inspection conducted by the Director shall be made after completion of operations (Section 4604 PRC).
- (4) The RPF certifies that the timberland is substantially damaged.
- (5) The RPF shall also certify that no conditions were identified where operations, conducted in compliance with the rules of the Board, would reasonably result in significant adverse effects.

1 **1038.** (b) Harvesting dead, dying or diseased trees of any size, fuelwood or split products in amounts
2 less than 10 percent of the average volume per acre when the following conditions are met:

3 (1) No tractor or heavy equipment operations on slopes greater than 50 percent.

4 (2) No construction of new tractor roads on slopes greater than 40 percent.

5 (3) Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall
6 comply with the rules associated with that Special Treatment Area.

7 (4) No tractor or heavy equipment operations on known slides or unstable areas.

8 (5) No new road construction or reconstruction, as defined in 14 CCR 895.1.

9 (6) No heavy equipment operations within the standard width of a watercourse or lake protection
10 zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except for maintenance of roads and
11 drainage facilities or structures.

12 (7) No known sites of rare, threatened or endangered plants or animals will be disturbed,
13 threatened or damaged.

14 (8) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR
15 895.1.

16 (9) No timber harvesting within the standard width of a watercourse or lake protection zone, as
17 defined in 14 CCR 916.4 [936.4, 956.4] (b), except sanitation-salvage harvesting, as defined in
18 14 CCR 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall
19 meet the stocking standards of 14 CCR 912.7 [932.7, 952.7] (b)(2), or, except the removal of
20 dead or dying trees where consistent with 14 CCR 916.4 [936.4, 956.4] (b). Trees to be
21 harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

22 (10) No timber operations on any site that satisfies the criteria listed in 895.1 for a significant
23 archaeological or historical site. Information on some of these sites may be available from the
24 Information Centers of the California Historical Resources Information System within the
25 Department of Parks and Recreation.

1 **1038.** (k) Harvesting dead or dying trees of any size, fuelwood or split products, in response to drought
2 related stress. The provisions of this exemption supersede the provisions of any other exemptions that
3 are in the same Harvest Area footprint. In addition to compliance with 14 CCR § 1038.1, and the
4 limitations listed in 1038(b)(1)-(10), the following apply:

5 (1) The exemption shall include the requirements of 14 CCR § 1038.2(a)-(c), total acreage of the
6 exemption Harvest Area (as defined in 14 CCR § 895.1), and an enlarged 7 1/2 minute
7 quadrangle map or its equivalent that is not less than one (1) inch equals 1,000 feet showing the
8 location of the Harvest Area, which means the area in which trees are expected to be felled and
9 removed within the one (1) year effective period of this exemption. For projects that require a
10 Registered Professional Forester (RPF), pursuant to 14 CCR § 1038(k)(8), the location of
11 Timber Operations and Watercourses, including watercourse classification, shall also be shown
12 on this map. In addition to the supplementary mapping requirement when an RPF is required, a
13 narrative describing the pattern of mortality shall be provided.

14 (2) The exemption shall include a certification of ownership signed by the Timberland Owner.

15 (3) Trees eligible for removal shall meet one or more of the following conditions:

16 (A) Trees that are dead, or,

17 (B) Trees with fifty (50%) percent or more of the foliage-bearing crown that is dead or fading in color
18 from a normal green to yellow, sorrel, or brown, excluding normal autumn coloration changes, or with
19 evidence of successful bark beetle attacks, through indications of dead cambium and brood
20 development distributed around the circumference of the bole, or;

21 (C) The RPF, in writing, in the Notice of Exemption, certifies the following:

22 1. Trees are designated, by an RPF or Supervised Designee, with a stump mark, as likely to die
23 due to drought related stress within one year, or,

24 2. Trees marked in accordance with 14 CCR § 1038(b)(9), or,

25 3. Trees marked by an RPF in accordance 14 CCR § 1038(h).

1 (4) Slash shall be Lopped for Fire Hazard Reduction, pursuant to the definition in 14
2 CCR § 895.1. Lopping for Fire Hazard Reduction means severing and spreading slash
3 so that no part of it generally remains more than 30 inches above the ground.

4 (5) Retain an average for the Harvest Area of not less than one (1) Decadent and
5 Deformed Tree of Value to Wildlife (as defined in 14 CCR § 895.1), Snag, or Dying Tree
6 per acre that is greater than sixteen (16) inches DBH (diameter breast height) and
7 twenty (20) feet tall. This provision does not apply within one hundred (100) feet of
8 habitable structures, roads, fire suppression ridges, and infrastructure facilities such as
9 transmission lines and towers, or water conveyance and storage facilities.

10 (6) The exemption shall include the tentative commencement date of Timber Operations
11 on the notice required in 14 CCR § 1038.2. Within a fifteen (15) day period before
12 beginning Timber Operations, the Timber Operator shall notify the Department of the
13 actual commencement date for the start of operations.

14 (7) Operations pursuant to this exemption may not commence for five (5) working days
15 from the date of the Director's receipt of the Notice of Exemption unless this delay is
16 waived by the Director, after consultation with other state agencies. The Director shall
17 determine whether the Notice of Exemption is complete, and if so, shall send a copy of a
18 notice of acceptance to the submitter. If the Notice of Exemption is not complete and
19 accurate, it shall be returned to the submitter and the Timber Operator may not proceed.
20 If the Director does not act within five (5) days of receipt of the Notice of Exemption,
21 Timber Operations may commence.

22 (8) The exemption shall be submitted by an RPF, and include the following, when
23 Timber Operations on a cumulative Harvest Area exceeds twenty (20) acres per total
24 contiguous ownership.
25

1 (A) Name, address, telephone and license number of the RPF that prepared and submitted the Notice of
2 Exemption.

3 (B) RPF certification that no conditions were identified where operations, conducted in compliance with
4 the rules of the Board, would reasonably result in significant adverse effects.

5 (9) The Department shall monitor and report on the statewide use of the exemption, allowed
6 under 14 CCR § 1038(k), including the number of Harvest Area acres, the areas of application
7 and the degree of compliance. The Department shall, at a minimum, annually report its findings
8 to the Board.

9 (10) 14 CCR § 1308(k) shall expire on December 31, 2018.